

AN ORDINANCE OF THE CITY OF FRISCO, TEXAS, AMENDING FRISCO'S COMPREHENSIVE ZONING ORDINANCE NO. 00-11-01, GRANTING A SPECIFIC USE PERMIT FOR A COMMUNICATIONS TOWER, LOCATED ON A TRACT OF LAND SITUATED IN THE JAMES BOLIN SURVEY, ABSTRACT NUMBER 32 AND IN THE B.F. MCNEIL SURVEY, ABSTRACT NUMBER 607, COLLIN COUNTY, TEXAS, CONTAINING 11.264 ACRES OF LAND, MORE OR LESS; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the City Council of the City of Frisco, Texas (the "City Council"), has investigated and determined that Comprehensive Zoning Ordinance No. 00-11-01 should be amended and pursuant to a notice being duly posted according to law, conducted a public hearing wherein a request was made by City of Frisco ("Applicant"), to allow a Specific Use Permit for a Communications Tower on a tract of land zoned Office-2. The tract of land is situated in the James Bolin Survey, Abstract No. 32, and in the B.F. McNeil Survey, Abstract No. 607, in the City of Frisco, Collin County, Texas ("Frisco"), containing 11.264 acres of land, more or less, and being particularly described in Exhibit "A", attached hereto and incorporated herein for all purposes (the "Property"); and

WHEREAS, the City Council finds that Applicant has agreed to comply with all provisions of the ordinances of Frisco, including but not limited to Frisco's Comprehensive Zoning Ordinance No. 00-11-01, and has further agreed to comply with the additional restrictions set forth herein and the site plan/elevation, attached hereto as Exhibit "B" and incorporated herein for all purposes; and

WHEREAS, the City Council has investigated and determined that it would be advantageous and beneficial to the citizens of Frisco to grant the Specific Use Permit, and that such grant will not be detrimental to the public welfare, safety or health, and

that the Specific Use Permit should be granted.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS:

SECTION 1: Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2: Specific Use Permit Granted. Applicant is granted a Specific Use Permit to allow the Communications Tower on the Property, which is zoned Office-2. The tract of land is situated in the James Bolin Survey, Abstract No. 32, and in the B.F. McNeil Survey, Abstract No. 607, in the City of Frisco, Collin County, Texas.

The Property as a whole and the boundaries are more particularly described in Exhibit "A" attached hereto. The general location of the Property is depicted on Exhibit "A-1", attached hereto. The Property shall be developed in compliance with the conditions expressly stated in the site plan/elevation, attached hereto as Exhibit "B".

SECTION 3: Failure to Comply/Assignable and Transferable. Except as otherwise stated above, all terms of the Specific Use Permit shall be complied with prior to issuance of a certificate of occupancy. Failure to comply with any term or condition of this Ordinance and/or Frisco's Comprehensive Zoning Ordinance No. 00-11-01, as it exist or may be amended, will result in the Specific Use Permit being declared null and void and of no force and effect. The Specific Use Permit is issued to the entity named above and is assignable and transferable.

SECTION 4: Specific Use Permits Regulations. Upon holding a properly notified public hearing, the City Council may amend, change, or rescind a specific use permit if:

1. There is a violation and conviction of any of the provisions of this Ordinance, or any ordinance of the City of Frisco, that occurs on the Property;
2. The building(s), premise, or land used under a Specific Use Permit are enlarged, modified, structurally altered, or otherwise significantly changed

unless a separate Specific Use Permit is granted for such enlargement, modification, structural alteration, or change;

3. Violation of any provision of the terms or conditions of this Specific Use Permit;
4. Ad valorem taxes on the Property are delinquent by more than six (6) months;
5. The Specific Use Permit was obtained by fraud or deception; or
6. As otherwise permitted by law and/or Frisco's Comprehensive Zoning Ordinance No. 00-11-01 as it exists or may be amended.

SECTION 5: Specific Use Permit Effective Date. This Specific Use Permit shall be effective from and after the effective date of this Ordinance. Upon termination of this Specific Use Permit, the Property shall cease to be used as provided herein unless another Specific Use Permit or appropriate zoning has been obtained.

SECTION 6: Unlawful Use of Premises. It shall be unlawful for any person, firm, entity or corporation to make use of the above-referenced tract of land in some manner other than as authorized by this Ordinance or other applicable ordinances.

SECTION 7: Penalty. Any person, firm, corporation or business entity violating this Ordinance and/or any provision of Frisco's Comprehensive Zoning Ordinance No. 00-11-01, as amended, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined a sum not exceeding Two Thousand Dollars (\$2,000.00). Each continuing day's violation under this Ordinance shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude Frisco from filing suit to enjoin the violation. Frisco retains all legal rights and remedies available to it pursuant to local, state and federal law.

SECTION 8: Savings/Repealing Clause. Frisco's Comprehensive Zoning Ordinance No. 00-11-01 shall remain in full force and effect, save and except as amended by this or any other Ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 9: Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Frisco hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause or phrase thereof, regardless of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

SECTION 10: Effective Date: This Ordinance shall become effective from and after its adoption and publication as required by the City Charter and by law.


DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS on this the 16th day of December, 2008.

MAHER MASO, Mayor

**ATTESTED TO AND
CORRECTLY RECORDED BY:**

RON PATTERSON
Interim City Secretary

APPROVED AS TO FORM:



ABERNATHY, ROEDER, BOYD & JOPLIN, P.C.
CLAIRE E. SWANN, City Attorneys

Dates of Publication: _____, *Frisco Enterprise*

Exhibit "A"
Legal Description

WHEREAS, the City of Frisco is the sole owner of an 11.264 acre tract of land situated in the James Bolin Survey, Abstract No. 32, and in the B.F. McNeil Survey, Abstract No. 607, City of Frisco, Collin County, Texas; said tract being that same certain tract described in the Warranty Deed to the City of Frisco, Texas recorded in Volume 5461, Page 3758 of the Deed Records of Collin County, Texas: said 11.264 acre tract being more particularly described as follows:

BEGINNING, at a "+" cut in concrete found at the intersection of the southeast right-of-way line of Parkwood Drive (a 100-foot wide right-of-way) and the northeast right-of-way line of Stonebrook Parkway (a 100-foot wide right-of-way); said point being on a curve to the right;

THENCE, in a southwesterly direction, along the said northwest line of Stonebrook Parkway and said curve to the right, having a central angle of 14 degrees, 51 minutes, 21 seconds, a radius of 950.00 feet, a chord bearing and distance of South 63 degrees, 28 minutes, 57 seconds West, 245.63 feet, on arc distance of 246.32 feet to a 5/8 inch iron rod found at the beginning of a reverse curve to the left;

THENCE, continuing along the said northwest line of Stonebrook Parkway and along said curve to the left, having a central angle of 10 degrees, 51 minutes, 08 seconds a radius of 1050.00 feet, a chord bearing and distance of South 65 degrees, 29 minutes, 03 seconds West, 198.58 feet, an arc distance of 198.88 feet to a 5/8 inch iron rod with "PBS&J INC" cap found for corner; said point being the easternmost corner of a tract of land described in Warranty Deed to Texas Univest-Frisco, Ltd., recorded in County Clerk's File No. 93-0051249 of the Land Records of Collin County, Texas;

THENCE, North 43 degrees, 21 minutes, 44 seconds West, departing the said northwest line of Stonebrook Parkway and along the northeast line of said Texas Univest-Frisco, Ltd. tract, a distance of 920.04 feet to a "PK" nail found for corner in the approximate centerline of Fifth Street (a undedicated public right-of-way); said point being in the southeast line of a tract of land described in Warranty Deed to GNB, Inc. recorded in County Clerk's File No. 92-0009197 of the Land Records of Collin County, Texas;

THENCE, North 40 degrees, 04 minutes, 14 seconds East, along the said southeast line of GNB Inc. tract, a distance of 688.44 feet to a 1/2 inch iron rod found for corner in the said southwest line of Parkwood Drive; said point being on a non-tangent curve to the left;

THENCE, in a southeasterly direction, along the said southwest line of Parkwood Drive and said curve to the left, having a central angle of 37 degrees, 44 minutes, 40 seconds, a radius of 1100.00 feet, a chord bearing and distance of South 23 degrees, 02 minutes, 30 seconds East, 711.61 feet, an arc distance of 724.64 feet to a 5/8 inch iron rod with "PBS&J INC" cap found at the end of said curve;

THENCE, South 41 degrees, 54 minutes, 53 seconds East, continuing along the said southeast line of Parkwood Drive, a distance of 466.70 feet to the POINT OF BEGINNING; containing, 490,665 square feet or 11.264 acres of land, more or less.

Exhibit "A-1"

SUP08-0010
NWC Stonebrook Parkway and
Parkwood Drive
City Communication Tower

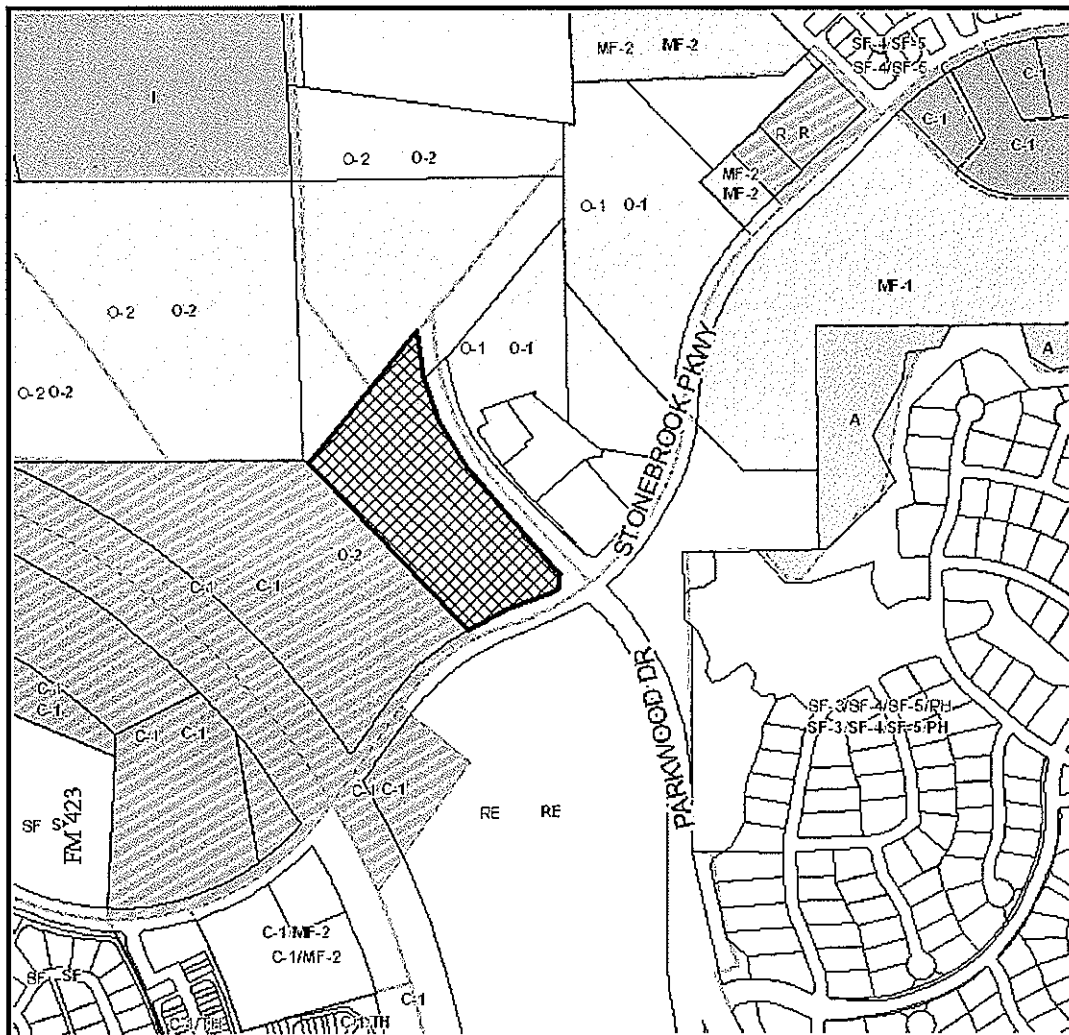


Exhibit "B"

